

March 14, 2019

Mr. Henry Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: Keener Property at 3647 Mount Zion Road
Forest Conservation Variance
Tracking #03-19-2947

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on March 7, 2019. If granted, the variance would allow removal of five (5) specimen trees in order to construct a single-family dwelling on the above-referenced property. The 1.2-acre property is currently an entirely forested lot and contains no manmade structures. The specimen trees to be removed include a 44-inch diameter-at-breast-height (DBH) chestnut oak in poor condition, two 33-inch DBH chestnut oaks in good condition, a 31-inch DBH chestnut oak in poor condition, and a 36-inch DBH chestnut oak in good condition. There are four other specimen trees on or near the property that will not be impacted by the proposed construction.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to construct a single-family dwelling on an unimproved, entirely forested lot. Due to zoning setback, septic system, and well requirements coupled with the lot's triangular shape, no alternative layout that avoids impact to specimen trees is possible. Therefore, full application of the law would

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deprive the applicant of all beneficial use of the property. Consequently, we find that this criterion has been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due the number and distribution of specimen trees across the site rather than general conditions of the neighborhood. Therefore, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of predominantly forested area and agricultural land with some low-density single-family residences in between. Given that one single-family dwelling is proposed for this otherwise forested lot, we find that granting this variance will not alter the essential character of this neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any streams, wetlands, floodplains, or associated buffers. Moreover, the project will provide water quality management of storm runoff through rooftop disconnects and infiltration. As such, this Department finds that the proposed variance will not adversely affect water quality. Consequently, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Although five specimen trees are to be removed and 0.8 acre of forest cleared, the applicant will be required to retain 0.3 acre of forest in a Forest Conservation Easement onsite as well as provide 0.7 acre of reforestation offsite. Moreover, three of the remaining four specimen trees will be retained in the Forest Conservation Easement. Therefore, we find that this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and that this criterion has been met.

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Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. No mitigation is required for the removal of the five specimen trees as they are within forest proposed for clearing for which mitigation is already being provided through implementation of the Forest Conservation Plan.
2. A final Forest Conservation Plan detailing the protection of the remaining specimen trees and forest shall be approved by EPS, and the 0.7 acre of offsite reforestation provided prior to grading plan or permit approval.
3. The following note must be on all subsequent plans for this development project:

“A variance was granted on March 14, 2019 by Baltimore County Dept. of Environmental Protection and Sustainability to remove five specimen trees. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met, including retention of 0.3 acre of forest onsite and 0.7 acre of reforestation provided offsite.”

This variance approval does not exempt future development activities or future removal of specimen trees at this site from compliance with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement below and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens
Acting Director

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DVL/lbe

- c. Mr. & Mrs. Paul and Anne Keener
Mr. Keith Heindel, Hanover Land Services, Inc.
Ms. Marian Honeczy, Maryland Department of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Owner's Signature

Date

Printed Name